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MURPHY, DAVID KUO and the Class

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

DAVID F. MURPHY, an individual,  
DAVID KUO, an individual, and on  
behalf of all others similarly situated,

Plaintiffs,

v.

AIR NEW ZEALAND,  
ALL NIPPON AIRWAYS,  
CATHAY PACIFIC AIRWAYS,  
CHINA AIRLINES,  
EVA AIRLINES,  
JAPAN AIRLINES INTERNATIONAL,  
MALAYSIA AIRLINES,  
NORTHWEST AIRLINES,  
QANTAS AIRLINES,  
SINGAPORE AIRLINES,  
THAI AIRLINES,  
UNITED AIRLINES,

Defendants.

CASE NO. ~~08-01214~~ R PJW

**CLASS ACTION COMPLAINT  
FOR VIOLATIONS OF THE  
SHERMAN ANTITRUST ACT  
15 U.S.C. § 1**

**JURY TRIAL DEMANDED**

1 Pursuant to the Federal Rules of Civil Procedure, Plaintiffs DAVID FRANK  
2 MURPHY and DAVID KUO ("Plaintiffs"), on behalf of themselves and all others  
3 similarly situated, hereby bring this action for treble damages and injunctive relief  
4 under the federal antitrust laws of the United States, Section 1 of the Sherman  
5 Antitrust Act of 1890, 15 U.S.C. § 1 ("Sherman Act") and Sections 4 and 26 of the  
6 Clayton Antitrust Act of 1914, 15 U.S.C. §§ 15, 26 ("Clayton Act") against  
7 Defendants. Plaintiffs complain and allege upon information and belief except as  
8 to those paragraphs applicable to the named Plaintiffs, which are based on personal  
9 knowledge, as follows:

#### 10 NATURE OF THE ACTION

11 1. This action arises from a global conspiracy among certain airlines to  
12 fix, raise, maintain, and/or stabilize prices for long haul passenger transpacific  
13 flights to and from the United States ("Passenger Air Transportation"), and for  
14 fixed fuel surcharges on this transportation ("Fuel Surcharges"). Fuel surcharges  
15 are fees charged to passengers by airlines purportedly to compensate the airlines  
16 for increased fuel costs.

17 2. Plaintiffs, on behalf of all persons and entities who purchased  
18 Passenger Air Transportation to and from the United States from any of the  
19 Defendants and their co-conspirators, or any predecessor, subsidiary, or affiliate of  
20 each, at any time during the period 2004 through August 2007 ("Class Period"),  
21 bring this action to recover treble damages and injunctive relief for violations of  
22 the United States antitrust laws.

23 3. At all relevant times herein, Defendants were airlines that conducted  
24 and sold Passenger Air Transportation, and charged fixed Fuel Surcharges on that  
25 transport, to airline passengers in the United States and throughout the world,  
26 including but not limited to flights to and from Los Angeles and to and from San  
27 Francisco, California. Los Angeles International Airport ("LAX") and San  
28 Francisco International Airport ("SFO") are considered the international U.S.

1 gateways to Asian and Pacific countries. The U.S. Department of Transportation  
2 reported that in 2005 LAX and SFO were ranked in the top U.S. passenger  
3 gateways to the world in scheduled passenger service. That year LAX and SFO  
4 had 24.6 million gateway passengers, with the foreign share of the passengers at an  
5 average of 67%.

6 4. As further alleged herein, during at least the Class Period, Defendants  
7 agreed, combined and/or conspired with each other to fix, raise, maintain, and/or  
8 stabilize the prices of Passenger Air Transportation and Fuel Surcharges thereon.  
9 As a result of Defendants' unlawful conduct and conspiracy, Plaintiffs and the  
10 other members of the Class paid artificially high prices for Passenger Air  
11 Transportation and Fuel Surcharges thereon, and have been damaged accordingly.

#### 12 JURISDICTION AND VENUE

13 5. This Complaint is brought under Sections 4 and 16 of the Clayton  
14 Act, 15 U.S.C. §§ 15 and 26, to obtain injunctive relief and to recover treble  
15 damages and the costs of this suit, including reasonable attorneys' fees, against  
16 Defendants for the injuries sustained by Plaintiffs and the members of the Class by  
17 reason of Defendants' violations of Section 1 of the Sherman Act, 15 U.S.C. § 1.

18 6. This Court has jurisdiction over this action pursuant to 28  
19 U.S.C. §§ 1331 and 1337, and Sections 4 and 16 of the Clayton Act, 15  
20 U.S.C. §§ 15 and 26.

21 7. This Court has *in personam* jurisdiction over each of the Defendants  
22 because each was engaged in an illegal price-fixing scheme and conspiracy that  
23 was directed at and/or caused injury to persons and entities residing in, located in,  
24 or doing business in the Central District of California and throughout the United  
25 States.

26 8. Venue is proper in this judicial district pursuant to 15 U.S.C. § 22 and  
27 28 U.S.C. § 1391(b), (c), and (d) because during the Class Period many of the  
28 Defendants resided, transacted business, were found, or had agents in this district,

1 and because a substantial part of the events giving rise to Plaintiffs' claims  
2 occurred, and a substantial portion of the affected trade and commerce described  
3 below has been carried out, in this district.

4 **PARTIES**

5 **PLAINTIFFS**

6 9. Plaintiff DAVID FRANK MURPHY is a citizen of the State of  
7 California, Los Angeles County. He purchased Passenger Air Transportation and  
8 paid Fuel Surcharges thereon from Defendants Thai Airways, Singapore Airlines,  
9 and United Airlines, during the class period and has suffered pecuniary injury as a  
10 result of the antitrust violations alleged herein.

11 10. Plaintiff DAVID KUO is a citizen of the State of California, Los  
12 Angeles County. He purchased Passenger Air Transportation and paid Fuel  
13 Surcharges thereon from Defendants China Airways during the class period and  
14 has suffered pecuniary injury as a result of the antitrust violations alleged herein.

15 **DEFENDANTS**

16 11. Defendant AIR NEW ZEALAND is a New Zealand company with its  
17 principal place of business at Quay Tower, 29 Customs St West, Auckland, 1020,  
18 New Zealand. Air New Zealand conducts Passenger Air Transportation  
19 throughout the world, including into the United States and especially California.

20 12. Defendant ALL NIPPON AIRWAYS is a Japanese company with its  
21 principal place of business at Shidome-City Center, 1-5-2, Higashi-Shimbashi,  
22 Minato-ku, Tokyo 105-7133, Japan. All Nippon Airways conducts Passenger Air  
23 Transportation throughout the world, including into the United States and  
24 especially California.

25 13. Defendant CATHAY PACIFIC AIRWAYS is a Hong Kong-based  
26 company with its principal place of business at 9 Connaught Road, Central Swirel  
27 Housepox Box 1 GPO, Hong Kong, K3. Cathay Pacific Airways conducts  
28

1 Passenger Air Transportation throughout the world, including direct transpacific  
2 flights into the United States, especially California.

3 14. Defendant CHINA AIRLINES is a Taiwanese company with its  
4 principal place of business at 131 Nanking E Rd., Section 3, Taipei, Taiwan.  
5 China Airlines conducts Passenger Air Transportation throughout the world,  
6 including direct transpacific flights into the United States, especially California.

7 15. Defendant EVA AIRWAYS is a Taiwanese company with its  
8 principal place of business at 16F.-1, No. 207, Fusing Road, Taoyuan City,  
9 Taoyuan County, Taiwan. EVA Airways conducts Passenger Air Transportation  
10 throughout the world, including direct transpacific flights into the United States,  
11 especially California.

12 16. Defendant JAPAN AIRLINES INTERNATIONAL is a Japanese  
13 company with its principal place of business at 4-11, Higashi-Shinagawa 2-  
14 chrome, Shinagawa-Ku, Tokyo 140-8605, Japan. Japan Airlines International  
15 conducts Passenger Air Transportation throughout the world, including into the  
16 United States, especially California.

17 17. Defendant MALAYSIA AIRLINES is a Malaysian corporation with  
18 its principal place of business at MAS Complex A, Sultan Abdul Azia Shah  
19 Airport, 47200 Suband, Selangor Darui Ehsan, Malaysia. Malaysia Airlines  
20 conducts Passenger Air Transportation throughout the world, including into the  
21 United States, especially California.

22 18. Defendant NORTHWEST AIRLINES is a Delaware corporation with  
23 its principal place of business at 2700 Lone Oak Parkway, Eagan, Minnesota  
24 55121. Northwest Airlines conducts Passenger Air Transportation throughout the  
25 world, including into the United States, especially California.

26 19. Defendant QANTAS AIRWAYS is an Australian company with its  
27 principal place of business at 203 Coward Street, Qantas Centre, Mascot NSW  
28

1 2020 C3. Qantas Airways conducts Passenger Air Transportation throughout the  
2 world, including into the United States, especially California.

3 20. Defendant SINGAPORE AIRLINES is a Singapore company with its  
4 principal place of business at Airline House, 25 Airline Road, 819829 Singapore.  
5 Singapore Airlines conducts Passenger Air Transportation throughout the world,  
6 including direct transpacific flights into the United States, especially California.

7 21. Defendant THAI AIRWAYS is a Thailand company with its principal  
8 place of business at 89 Vibhavadi-Rangsit Road, Bangkok, Thailand 10900. Thai  
9 Airways conducts Passenger Air Transportation throughout the world, including  
10 direct transpacific flights into the United States, especially California.

11 22. Defendant UNITED AIRLINES is a Delaware corporation with its  
12 principal place of business at 77 W. Wacker, Chicago, Illinois 60601. United  
13 Airlines is one of the largest passenger airlines in the world with more than 3,600  
14 flights a day to more than two hundred destinations. United Airlines conducts  
15 Passenger Air Transportation throughout the world, including into the United  
16 States, especially California.

17 **UNNAMED CO-CONSPIRATORS**

18 23. At all relevant times, other airlines, trade groups, or other entities,  
19 willingly conspired with Defendants in their unlawful restraint of trade. All  
20 averments herein against named Defendants are also averred against these  
21 unnamed co-conspirators as though set forth at length herein.

22 **AGENTS**

23 24. The acts alleged to have been taken by Defendants were authorized,  
24 ordered or taken by their directors, officers, agents, employees, or representatives  
25 while actively engaged in the management of each of the Defendants' affairs.

26 **TRADE AND COMMERCE**

27 25. Throughout the Class Period, there was a continuous and  
28 uninterrupted flow of Passenger Air Transportation in international commerce



1 throughout the United States and especially into and out of Los Angeles and San  
2 Francisco. Defendants' unlawful activities, as described herein, took place within  
3 the flow of commerce to Passenger Flight customers throughout the world, and had  
4 a direct, substantial, and reasonably foreseeable effect upon interstate and  
5 international commerce in the United States.

6 **PLAINTIFFS AND THE CLASS SUFFERED INJURY**  
7 **THROUGH COLLUSIVE PRICE INCREASES AND SURCHARGES**

8 26. Defendants controlled a vast majority of the Passenger Flight services  
9 during the Class Period as a result of their dominant combined market share. Thus,  
10 Passenger Flight customers were unable to shop for Passenger Air Transportation  
11 from other carriers during that period because of the lack of competition, which  
12 allowed Defendants to reap enormous profits from the Fuel Surcharges.

13 27. In addition, Defendants and other carriers often treated Fuel  
14 Surcharges akin to a tax or other surcharge, such as an airport facility charge or a  
15 government mandated September 11 security charge. As such, Fuel Surcharges  
16 were not always advertised as part of Defendants' fares, and were added to the  
17 base fare as part of the purchase transaction.

18 28. Because surcharges generally are designed to compensate for  
19 increased external costs, they should bear a relatively constant relationship to  
20 external cost levels. Thus, in a competitive market, Fuel Surcharges should rise  
21 and fall at relatively constant ratios to the associated jet fuel costs. Since their  
22 inception in 2004, however, the ratio of Defendants' Surcharges to external costs  
23 has increased steadily. The Fuel Surcharges bore no relationship to Defendants'  
24 actual fuel costs or fuel cost increases.

25 29. The ratio of Defendants' profits to external costs was therefore quite  
26 high due to the concerted implementation and maintenance of the agreed-upon  
27 Passenger Air Transportation and Fuel Surcharge price levels. Thus, despite  
28 increased fuel costs during the Class Period, Defendants' Surcharges were

1 responsible for outstanding *profit growth* for Defendants beyond the record fuel  
2 costs.

3 **CLASS ACTION ALLEGATIONS**

4 30. Plaintiffs bring this action on their own behalf and as a class action  
5 pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(3) on behalf of the  
6 following Class:

7 All individuals or entities (excluding governmental  
8 entities, Defendants and their parents, predecessors,  
9 subsidiaries, affiliates, and co-conspirators) who  
10 purchased passenger air transportation, for long haul  
11 transpacific flights and who paid a fuel surcharge on their  
tickets from any of the Defendants and their co-  
conspirators or any predecessor, subsidiary, or affiliate of  
each, at any time during the period 2004 through August  
2007.

12 31. Because such information is in the exclusive control of Defendants,  
13 Plaintiffs do not know the exact number of Class members. Due to the nature of  
14 the trade and commerce involved, however, Plaintiffs believe that Class members  
15 number at least in the thousands and are sufficiently numerous and geographically  
16 dispersed throughout the United States and the world so that joinder of all Class  
17 members is impracticable. It is estimated that there were more than 15 million  
18 passengers traveling to the Pacific out of California in 2006 alone.

19 32. There are questions of law or fact common to the Class including:

- 20 a. Whether Defendants engaged in a combination or conspiracy  
21 among themselves to fix, raise, maintain, and/or stabilize  
22 Passenger Air Transportation and Surcharge prices charged  
23 effecting commerce in the United States and throughout the world;  
24 b. The duration of the conspiracy alleged in this Complaint and the  
25 nature and character of the acts performed by Defendants in  
26 furtherance of the conspiracy;  
27 c. Whether the alleged conspiracy violated Section 1 of the Sherman  
28 Act;



- 1 d. Whether the conduct of Defendants, as alleged in this Complaint,  
2 caused injury to the businesses or property of Plaintiffs and the  
3 other members of the Class;  
4 e. The effect of Defendants' conspiracy on the Passenger Air  
5 Transportation and Surcharge prices charged in the United States  
6 and throughout the world during the Class Period; and  
7 f. The appropriate measure of damages sustained by Plaintiffs and  
8 other members of the Class.

9 33. Plaintiffs are members of the Class. Plaintiffs' claims are typical of  
10 the claims of the Class members. Plaintiffs will fairly and adequately protect the  
11 interests of the Class. Plaintiffs purchased Passenger Air Transportation and  
12 Surcharges from one or more Defendants, and their interests are coincident with  
13 and not antagonistic to those of other members of the Class. Plaintiffs are  
14 represented by counsel competent and experienced in the prosecution of antitrust  
15 and class action litigation.

16 34. The questions of law and fact common to the members of the Class  
17 predominate over any questions affecting only individual members.

18 35. A class action is superior to other methods for the fair and efficient  
19 adjudication of this controversy. Treatment as a class action will permit a large  
20 number of similarly situated persons to adjudicate their common claims in a single  
21 forum simultaneously, efficiently, and without the duplication of effort and  
22 expense that numerous individual actions would engender.

23 36. Class treatment will also permit the adjudication of relatively small  
24 claims by many Class members who otherwise could not afford to litigate an  
25 antitrust claim such as is asserted in this Complaint.

26 37. This action presents no difficulties in management that would  
27 preclude maintenance as a class action. Finally, the Class is readily definable and  
28

1 is one for which records of the names and addresses of the members of the Class  
2 exist in the files of Defendants.

3 **DEFENDANTS AND THE PASSENGER FLIGHT MARKET**

4 38. Each Defendant possesses significant market share on their routes of  
5 travel. The principal competitors for the Defendants in the transpacific long haul  
6 Passenger Air Transportation market are therefore one another.

7 39. Passenger Air Transportation is a commodity product that is fungible  
8 in the sense that Passenger Air Transportation provided by any one airline is  
9 readily substitutable for the Passenger Air Transportation provided by any other  
10 airline.

11 40. Passenger Air Transportation is a homogenous service sold by  
12 airlines, including Defendants, to airline customers, including Plaintiffs and the  
13 members of the Class, primarily based on price.

14 41. The Passenger Air Transportation market in the United States and  
15 worldwide is highly concentrated, and there exists substantial barriers to entry in  
16 this market; both factors facilitate the implementation and maintenance of a  
17 horizontal price-fixing cartel such as that perpetrated by Defendants and alleged  
18 herein.

19 **DEFENDANTS CONCERTED FUEL SURCHARGES**

20 42. Generally, surcharges are a feature of the global air transportation  
21 market, in which airlines charge extra fees to their customers, above and beyond  
22 basic flight rate charges, with the intent of defraying certain external costs of the  
23 carriers.

24 43. Beginning in 2004, Defendants agreed to act in concert with one  
25 another in demanding the Surcharges to defray fuel costs and agreeing when and  
26 how much to increase the Surcharges to their Passenger Flight customers.

27 44. Defendants were aware that their imposition of Fuel Surcharges and  
28 other surcharges would not be successful if their supposed competitors did not join

1 them; otherwise, customers would be free to seek out lower prices. For this reason,  
 2 Defendants entered into agreements to raise surcharges at the same times and in the  
 3 same amounts.

4 45. But for Defendants' Passenger Air Transportation conduct,  
 5 Defendants would have been unable to perpetrate the extent to which they  
 6 increased the prices of their Fuel Surcharges.

7 46. The collusion of Japan Airlines International and All Nippon Airways  
 8 ("ANA") is representative of the behavior of the other Defendants. Japan Airlines  
 9 International and ANA agreed to raise and lower fares on nearly always the same  
 10 dates and were in lockstep on surcharges for transpacific fares:  
 11

12 <b>June 8, 2004:</b> ANA files a notice with 13 the Japanese government to raise IATA 14 international fares – in the wake of 15 increased fuel prices – to and from 16 Japan, effective <b>July 1, 2004</b> . This was 17 a 5% hike with an exception for North 18 America economy fares, but not 19 business class.	<b>June 8, 2004:</b> Japan Airlines files a notice with the Japanese government to raise international fares – in the wake of increased fuel prices – to and from Japan, effective <b>July 1, 2004</b> . This was a 5% hike with an exception for North American economy fares, but not business class.
21 <b>January 5, 2005:</b> ANA announces it 22 will add fuel surcharges on international 23 fares on <b>February 1, 2005</b> . The 24 surcharges for transpacific flights were 25 2,500 yen.	<b>January 20, 2005:</b> Japan Airlines announces it will add fuel surcharges on international fares on <b>February 1, 2005</b> . The surcharges for transpacific flights were 2,500 yen.
27 <b>June 3, 2005:</b> Japan Airlines files a 28 notice with the Japanese government to	<b>June 7, 2005:</b> ANA files a notice with the Japanese government to raise its

1	raise its international fuel surcharge	international fuel surcharge effective
2	effective <b>July 1, 2005</b> .	<b>July 7, 2005</b> .
3		
4	<b>January 16, 2006:</b> Japan Airlines files	<b>January 23, 2006:</b> ANA files a notice
5	a notice with the Japanese government	with the Japanese government to raise
6	to raise its international fuel charge	its international fuel charge effective
7	effective <b>March 1, 2006</b> .	<b>March 1, 2006</b> .
8		
9	<b>August 17, 2006:</b> Japan Airlines files a	<b>August 31, 2006:</b> ANA files a notice
10	notice with the Japanese government to	with the Japanese government to raise
11	raise its international fuel surcharge,	its international fuel surcharge, effective
12	effective <b>October 1, 2006</b> from 8,000	<b>October 15, 2006</b> from 8,000 yen to
13	yen to 13,600 yen (\$66 to \$113).	13,600 yen (\$66 to \$113).
14		
15	<b>November 16, 2006:</b> Japan Airlines	<b>November 16, 2006:</b> ANA files a
16	files a notice with the Japanese	notice with the Japanese government to
17	government to reduce the fuel surcharge	reduce the fuel surcharge on
18	on international passenger fares	international passenger fares effective
19	effective <b>January 1, 2007</b> lowering the	<b>January 1, 2007</b> lowering the surcharge
20	surcharge from 13,600 yen to 13,000	from 13,600 yen to 13,000 yen (\$113 to
21	yen (\$113 to \$108).	\$108).
22		
23	<b>March 19, 2007:</b> Japan Airlines files a	<b>March 20, 2007:</b> ANA files a notice
24	notice with the Japanese government to	with the Japanese government to reduce
25	reduce the fuel surcharge on	the fuel surcharge on international
26		
27	international passenger fares effective	passenger fares effective <b>May 1, 2007</b>
28	<b>May 1, 2007</b> to 11,000 yen or \$91.	to 11,000 yen or \$91.

1		
2	<b>May 14, 2007:</b> Japan Airlines files a	<b>May 25, 2007:</b> ANA files a notice with
3	notice with the Japanese government to	the Japanese government to raise the
4	raise the fuel surcharge on international	fuel surcharge on international
5	passenger fares effective <b>July 1, 2007</b>	passenger fares effective <b>July 10, 2007</b>
6	from 11,000 yen or \$91 to 12,000 yen or	from 11,000 yen or \$91 to 12,000 yen or
7	\$100.	\$100.
8		
9	<b>August 15, 2007:</b> Japan Airlines files a	<b>August 20, 2007:</b> ANA files a notice
10	notice with the Japanese government to	with the Japanese government to raise
11	raise the fuel surcharge on international	the fuel surcharge on international
12	passenger fares effective <b>October 1,</b>	passenger fares effective <b>October 1,</b>
13	<b>2007</b> from 12,000 yen or \$100 to 13,000	<b>2007</b> from 12,000 yen or \$100 to 13,000
14	yen or \$108.	yen or \$108
15		

### **CARTEL-LIKE TRADE ORGANIZATIONS**

47. Defendants' executives, as well as other air carriers' executives, met formally or informally over the years at various trade meetings or meetings of trade associations, such as the International Air Transport Association, the Association of Asian Pacific Airlines, oneworld, Star Alliance and SkyTeam Alliance. At one or more of these meetings, Defendants conspired to artificially inflate Fuel Surcharges on international passenger air transportation.

48. One of the keys to the conspiracy is the 42-year old Association of Asia Pacific Airlines ("AAPA"). The 17-member trade association, based in Kuala Lumpur, Malaysia, is the most significant group representing Asia/Pacific carriers. The AAPA boasts that its "member airlines carry 285 million passengers and 10 million tons of cargo representing approximately one-fifth of global passenger

1 traffic and one-third of global air cargo traffic respectively.” Ten of the defendants  
2 are members of the AAPA.

3 49. The primary purpose of the AAPA is to serve as a forum for  
4 members’ views on issues of common interest and to foster close cooperation.

5 According to the organization:

6 AAPA speaks with a common voice on behalf of the  
7 Asia Pacific carriers and puts forward Asian perspectives  
8 when dealing with governments, aircraft manufacturers,  
9 airport authorities and other organizations on industry  
10 issues. The activities of the Association cover every  
11 aspect of civil aviation where the airlines feel they can  
work together for mutual benefit. In addition, AAPA  
retains access to specialized legal and aviation  
consultants in Brussels and Washington, a reflection of  
the significant impact which the profusion of U.S. and  
E.U. regulatory developments have on all international  
carriers including Asia Pacific airlines.

12 50. The AAPA was formed during a meeting of Asian airline executives  
13 in 1965 to discuss regional cooperation. The following year, Philippine Airlines,  
14 China Airlines, Korean Airlines and Malaysian Airlines officially formed the  
15 Orient Airlines Research Bureau. The group evolved into the Orient Airlines  
16 Association and in 1996 changed its name to the Association of Asia Pacific  
17 Airlines.

18 51. Another key to the conspiracy is the Geneva-based International Air  
19 Transport Association (“IATA”). All the Defendants are members of the IATA,  
20 which was founded in 1945 in Havana, Cuba. The IATA represents more than 240  
21 airlines comprising 94% of scheduled international air traffic. It describes itself as  
22 “the prime vehicle for inter-airline cooperation.” It was an agreement reached at  
23 an IATA meeting on May 28, 2004 that played a role in triggering the fuel  
24 Surcharge conspiracy.

25 52. Alliance memberships by airline:

26 **Air New Zealand**

- 27 • Member of the Association of Asia Pacific Airlines
- 28 • Member of the Star Alliance



- Member of the International Air Transport Association

**All Nippon Airways**

- Member of the Association of Asia Pacific Airlines
- Member of the Star Alliance
- Member of the International Air Transport Association

**American Airlines**

- Member of oneworld
- Member of the International Air Transport Association

**Cathay Pacific Airways**

- Member of the Association of Asia Pacific Airlines
- Member of oneworld
- Member of the International Air Transport Association

**China Airlines**

- Member of the Association of Asia Pacific Airlines
- Member of the International Air Transport Association

**EVA Airlines**

- Member of the Association of Asia Pacific Airlines
- Member of the International Air Transport Association

**Japan Airlines International**

- Member of the Association of Asia Pacific Airlines
- Member of oneworld
- Member of the International Air Transport Association

**Malaysia Airlines**

- Member of the Association of Asia Pacific Airlines
- Member of the International Air Transport Association

**Northwest Airlines**

- Member of the SkyTeam Alliance
- Member of the International Air Transport Association

**Qantas Airways**

- Member of the Association of Asia Pacific Airlines
- Member of oneworld
- Member of the International Air Transport Association

**Singapore Airlines**

- Member of the Association of Asia Pacific Airlines
- Member of the Star Alliance
- Member of the International Air Transport Association

**Thai Airways**

- Member of the Association of Asia Pacific Airlines
- Member of the Star Alliance
- Member of the International Air Transport Association

**United Airlines**

- Member of the Star Alliance
- Member of the International Air Transport Association

**CODE SHARING BUSINESS PARTNERSHIPS**

53. In addition to the four different alliances/trade groups, various Defendants are in effect business partners with each other through what is called code sharing. Code sharing is a business term that was first originated in 1990 when Qantas Airways and American Airlines combined services between an array of U.S. and Australian cities. Although code sharing is a legal business arrangement, it provides a mechanism to conduct illegal activity.

54. A code share is part of a “cooperative services” agreement between the two carriers. It refers to the practice where a flight operated by an airline is jointly marketed as a flight for one or more other airlines. Most major airlines today have code sharing partnerships with other airlines. “Code” refers to the identifier used in flight schedule, generally the 2-character International Air Transport Association airline designator code and flight number. For example,

1 YY123, flight 123 operated by the airline YY, could be sold by airline ZZ as  
2 ZZ456. It is a business partnership that allows airlines to earn revenue by selling  
3 tickets on a partner's flight.

4 55. According to the U.S. Department of Transportation and Defendants,  
5 the following are the code sharing partnerships of the Defendants listed  
6 alphabetically:

7 Air New Zealand / EVA Airways

8 Air New Zealand / Qantas (Tasman route)

9 Air New Zealand / Japan Airlines International

10 Air New Zealand / Northwest Airlines

11 Air New Zealand / Singapore Airlines

12 Air New Zealand / Thai Airways

13 Air New Zealand / United Airlines

14 All Nippon Airways / Asiana Airlines

15 All Nippon Airways / EVA Airways

16 All Nippon Airways / Malaysia Airlines

17 All Nippon Airways / Singapore Airlines

18 All Nippon Airways / United Airlines

19 China Airlines / American Airlines

20 Cathay Pacific Airways / American Airlines

21 Cathay Pacific Airways / Japan Airlines International

22 China Airlines / Thai Airways

23 EVA Airways / Air New Zealand

24 EVA Airways / American Airlines

25 EVA Airways / All Nippon Airways

26 EVA Airways / Qantas

27 EVA Air / American Airlines

28 Japan Airlines International / Air New Zealand

1 Japan Airlines International / American Airlines  
2 Japan Airlines International / Cathay Pacific  
3 Japan Airlines International / Korean Air  
4 Japan Airlines International / Northwest Airlines  
5 Japan Airlines International / Qantas Airlines  
6 Japan Airlines International / Singapore Airlines  
7 Japan Airlines International / Thai Airways  
8 Malaysia Airlines / All Nippon Airways  
9 Malaysia Airlines / Thai Airways  
10 Northwest Airlines / Air New Zealand  
11 Northwest Airlines / Asiana Airlines  
12 Northwest Airlines / Japan Airlines International  
13 Northwest Airlines / Korean Air  
14 Qantas Airways / Air New Zealand  
15 Qantas Airways / American Airlines  
16 Qantas Airways / EVA Airways  
17 Qantas Airways / Japan Airlines International  
18 Singapore Airlines / Air New Zealand  
19 Singapore Airlines / Asiana Airlines  
20 Singapore Airlines / All Nippon Airways  
21 Singapore Airlines / Malaysian Airlines  
22 Singapore Airlines / United Airlines  
23 Thai Airways / New Zealand  
24 Thai Airways / China Airlines  
25 Thai Airways / Japan Airlines International  
26 Thai Airways / Malaysia Airlines  
27 Thai Airways / United Airlines  
28 United Airlines / Air New Zealand

1 United Airlines / All Nippon Airways

2 United Airlines / Asiana Airlines

3 United Airlines / Singapore Airlines

4 United Airlines / Thai Airways

5 **CARTEL ACTIVITY MEETINGS**

6 56. Over the years, executives of Defendant airlines have attended  
7 numerous meetings where cartel-like activity was accomplished. Below are a few  
8 examples of meetings where executives discussed and agreed on fuel surcharges.

9 57. **The International Air Transport Association, Special Meeting,**  
10 **Geneva, May 28, 2004:** Fuel costs were the main topic of this meeting and there  
11 were agreements on how to add surcharges for fuel. The Montreal Gazette  
12 reported on June 1, 2004, that "member carriers of the International Air Transport  
13 Association might raise international fares by as much as five percent to help cover  
14 a surge in jet fuel costs. The proposed fare increase of between two percent and  
15 five percent was agreed at a May 28 meeting of the association, which represents  
16 more than 270 airlines worldwide, an IATA spokesperson said."

17 58. **The International Air Transport Association Annual General**  
18 **Meeting and World Air Transport Summit, Singapore, June 6-8, 2004:** More  
19 than 600 airline executives attended this annual summit. Giovanni Bisignani,  
20 IATA CEO said in a welcoming statement, "While record high fuel prices  
21 challenge our profitability it is time to put our efforts toward rebuilding the  
22 industry." Immediately following this meeting on June 8, 2004 both Japan  
23 Airlines International and All Nippon Airways filed applications with the Japanese  
24 government to raise international passenger fares because of high fuel costs. In a  
25 news release announcing the Fuel Surcharge hike, Japan Airlines International  
26 said:

27 The application follows a special meeting of the members  
28 of the International Air Transport Association in Geneva,  
May 28, (2004) when a resolution was discussed to raise

fares in the wake of increased fuel prices. This resolution has now been adopted.

Japan Airlines International and All Nippon Airways were in lockstep on June 8, 2004, both announcing on that day that a five percent fuel Surcharge would be going into effect, on the same day for both airlines, July 1, 2004.

59. **2005 International Flight Services Association, Global Leadership Conference – Asia Pacific, August 30 – September 1, 2005 Tokyo Japan:** This meeting was labeled as “The Challenge of Change.” Among the participants were, Makoto Fukada, Managing Director and Senior Vice President International Passenger, Japan Airlines; Sandra Pineau, Senior Director of Planning and Design, Continental Airlines; Charles Grossrieder, a manager at Cathay Pacific Airways; Nikom Raviyan, Vice President, Thai Airways; Sandeep Bahl, General Manager, Northwest Airlines; Shigeru Miyata, Vice President, Japan Airlines; Kriengsakdi Phatharacharukul, Director, Thai Airways; and Hee Won Jo, Senior Manager, Asiana Airlines.

60. **2<sup>nd</sup> Annual Asia Pacific & Middle East Aviation Outlook Summit 2006, December 5-6, 2005 Kuala Lumpur, Malaysia:** The theme of this meeting was “Towards Best Practice: Maximizing Revenues and Minimizing Costs.” On the first day of the meeting, the guests included Dato Seri Bashir Ahmad, Malaysia Airport’s CEO; Willy Boulter, Commercial Director for Virgin Atlantic Airways; and Stanley Kuppusamy, President, International Relations, Singapore Airlines. Fuel surcharges were a topic of discussion.

61. **Aviation Emergency Response 2006, AAP sponsored, September 19-21, 2006 Bangkok, Thailand:** This meeting was attended by international airport officials and AAPA member executives. Meetings were held on increasing revenues in the transpacific area by way of Fuel Surcharges and other financial means.

62. **3<sup>rd</sup> Annual Asia Pacific & Middle East Aviation Outlook Summit, November 9-10, 2006 Singapore:** Participating in this meeting were executives



1 from most of the Defendant airlines, including Geoff Dixon, CEO of Qantas and  
2 Huang Cheng Eng, Executive VP for Singapore Airlines. One of the issues  
3 presented and discussed was *“Fighting Costs: Fuel prices and managing risk*  
4 *exposure.”*

5 63. **AAPA Forum, November 28-29, 2006 Bandar Seri Begawan,**  
6 **Brunei Darussalam:** More than 120 aviation industry stakeholders attended this  
7 meeting, organized by AAP. At this meeting, Defendants and others discussed  
8 surcharges.

9 64. **Asia Pacific Aviation Summit, July 24-25, 2007 Sydney, Australia:**  
10 This meeting was put on by the Asia Pacific aviation industry. Some of the issues  
11 discussed included the impact of the investigation by the U.S. Department of  
12 Justice (“DOJ”) into fare price fixing. Another topic was “working together  
13 efficiently” to diffuse the investigation of added surcharges.

#### 14 **THE INVESTIGATION**

15 65. The DOJ started investigating air passenger fuel surcharge  
16 conspiracies worldwide in 2006, particularly transatlantic routes and transpacific  
17 routes to and from the West Coast. The DOJ announced on August 1, 2007 a \$300  
18 million settlement with British Airways and it cited passenger transatlantic routes.  
19 In its news release, the DOJ said: “The Department also charged that between  
20 August 2004 and February 2006, British Airways engaged in a conspiracy to  
21 suppress and eliminate competition by fixing the Fuel Surcharge charged to  
22 passengers on long-haul international flights, including flights between the United  
23 States and the United Kingdom.”

24 66. The DOJ also announced a settlement with Korean Air for fare price  
25 fixing on flights from the United States to Korea. The DOJ stated that Korean Air  
26 has “agreed to cooperate with the Department’s ongoing investigation.” Korean  
27 Air’s unnamed co-conspirator in the passenger fare price fixing via Fuel  
28 Surcharges was widely reported to be Asiana Airlines, which sought amnesty.

67. Under the Antitrust Criminal Penalty Enhancement and Reform Act of 2004, a company can apply for leniency from the DOJ for its participation in antitrust activities. Under the so-called Corporate Leniency Program, if a company comes forward with information about antitrust activities and cooperates in the investigation, it is eligible for conditional amnesty from prosecution.

68. Both Korean Air and Asiana Airlines are among the top transpacific carriers in the world. It was not the first time Korean Air and Asiana Airlines have been implicated in collusion and anticompetitive behavior. The Korean Fair Trade Commission fined Korean Air and Asiana in 2001 for conspiring to set passenger air transportation services in Korea.

69. In addition, several of the Defendants and unnamed co-conspirators have been identified as targets and or subjects in international investigations by the DOJ and the European Union into air cargo fuel surcharge price fixing. The targets, many of which are also named in civil suits, include Defendant All Nippon Airways, Defendant American Airlines, Asiana Airlines, Defendant Japan Airlines, Korean Airlines, Defendant Northwest Airlines, Defendant Qantas Airways and Defendant United Airlines. In both the air passenger and cargo investigations, Defendants and other airlines are accused of developing and participating in conspiracies to increase revenue by assessing inflated Fuel Surcharges.

#### **ADMISSIONS BY CO-CONSPIRATORS**

70. On August 13, 2007, Qantas Airways Chief Executive Officer Geoff Dixon announced that Qantas Airways would set aside \$40 million to cover a potential fine in the United States as a result of Fuel Surcharges and price fixing in its freight division. In a news release, Dixon was quoted as saying:

On 1 August 2007, the U.S. Department of Justice announced that British Airways and Korean Air had agreed to plead guilty and pay separate US\$300 million criminal fines for their roles in *conspiracies to fix prices of passenger and cargo flights*. British Airways subsequently announced that US\$200 million of its fine related to cargo. Based on these developments, a

1 decision has been made to make a US\$40 million (A\$47  
2 million) provision in the 2006/07 Financial Accounts.

3 Dixon also was quoted as saying:

4 We have investigated this issue thoroughly and are  
5 confident that the unacceptable conduct was limited to a  
6 small number of people.

7 75. On October 6, 2007, the Japanese daily newspaper *Asahi Shimbun*  
8 reported that Japan Airlines International would book a roughly \$171 million  
9 charge for potential fines from a global price fixing probe by U.S. and European  
10 Union officials. The newspaper said:

11 The company's move comes after the U.S. Justice  
12 Department fined British Airways PLC and Korean Air  
13 Lines Co. \$300 million each in August for fixing the  
14 price of passenger and cargo flights with other airlines.  
15 The companies allegedly conspired to set fuel surcharges  
16 when oil prices rose.

#### 17 VIOLATIONS ALLEGED

18 76. During the Class Period Defendants engaged in a continuing  
19 agreement, understanding, and conspiracy in restraint of trade to artificially raise,  
20 fix, maintain, and/or stabilize the prices of Passenger Air Transport and Fuel  
21 Surcharges in the United States and throughout the world in violation of Section 1  
22 of the Sherman Act, 15 U.S. § 1.

23 77. In formulating and effectuating the alleged contract, combination, or  
24 conspiracy, Defendants engaged in anti-competitive activities, the purpose and  
25 effect of which were to artificially raise, fix, maintain, and/or stabilize the prices of  
26 Passenger Air Transport and Fuel Surcharges. These activities included the  
27 following:

- 28 a. agreeing to charge prices of Passenger Air Transport and Fuel  
Surcharges at certain levels and otherwise to fix, raise, maintain,  
and/or stabilize the prices of Passenger Air Transport and Fuel  
Surcharges charged in the United States and throughout the world;

- b. charging Passenger Air Transport and Fuel Surcharges at the agreed-upon rates;
- c. signaling increases in the price of Passenger Air Transport and Fuel Surcharges by, *inter alia*, publicly announcing their increasing;
- d. moving prices of their Passenger Air Transport and Fuel Surcharges in lockstep; and
- e. announcing new Passenger Air Transport and Fuel Surcharges prices nearly simultaneously or within days of each other.

78. During the Class Period, the Defendants increased, as a ratio to external costs – and profits – the Passenger Air Transport and Fuel Surcharges they charged. These increases in Passenger Air Transport and Fuel Surcharges cannot be explained by actual increases in fuel prices or supply/demand forces, but rather were the result of anticompetitive conduct.

79. During the Class Period, Plaintiffs and members of the Class purchased Passenger Air Transport directly from Defendants (or their agents, subsidiaries, and/or controlled affiliates).

80. The illegal combination and conspiracy alleged herein has had the following effects, among others:

- a. Price competition in the pricing of Passenger Air Transportation and Fuel Surcharges thereon has been restrained, suppressed, and/or eliminated;
- b. Price competition in the contracting of Passenger Air Transportation has been restrained, suppressed, and/or eliminated;
- c. Prices for Passenger Air Transportation and Fuel Surcharges thereon charged by Defendants have been fixed, raised, maintained, and/or stabilized at artificially high, non-competitive levels; and

d. Members of the Class have been deprived of the benefit of free and open competition.

**FRAUDULENT CONCEALMENT**

81. Throughout the relevant period, Defendants affirmatively and fraudulently concealed their unlawful conduct from Plaintiffs and the Class.

82. Plaintiffs and the members of the Class did not discover, and could not discover through the exercise of reasonable diligence, that Defendants were violating the antitrust laws as alleged herein until shortly before this litigation was commenced. Nor could Plaintiffs and the members of the Class have discovered the violations earlier than that time because Defendants conducted their conspiracy in secret, concealed the nature of their unlawful conduct and acts in furtherance thereof, and fraudulently concealed their activities through various other means and methods designed to avoid detection. The conspiracy was by its nature self-concealing.

83. Plaintiffs and the members of the Class could not have discovered the unlawful conduct at an earlier date through the exercise of reasonable diligence because of Defendants' active and purposeful concealment of their unlawful activities.

84. Defendants engaged in a successful, illegal price-fixing conspiracy with respect to Fuel Surcharges and other fees, which they affirmatively concealed, in at least the following respects:

- a. By agreeing among themselves not to discuss publicly, or otherwise reveal, the nature and substance of the acts and communications in furtherance of their illegal scheme;
- b. By engaging in secret meetings and telephone calls in order to further their illicit Passenger Air Transportation and Fuel Surcharges cartel; and/or

1 c. By giving false and pretextual reasons for their pricing for  
2 Passenger Air Transportation and Fuel Surcharges thereon, and  
3 their increases, during the relevant period and by describing such  
4 pricing and increases falsely as being the result of external costs  
5 rather than collusion.

6 85. As a result of Defendants' fraudulent concealment of their conspiracy,  
7 Plaintiffs and the Class assert the tolling of any applicable statute of limitations  
8 affecting the rights of action of Plaintiffs and the members of the Class.

9 **INJURY TO PLAINTIFFS AND THE CLASS**

10 86. During the Class Period, Plaintiffs and the members of the Class,  
11 because of Defendants' antitrust violations, paid Surcharges and other fees they  
12 would not have paid absent such violations.

13 87. As a result, Plaintiffs and the members of the Class it seeks to  
14 represent have been injured and damaged in their business and property in an  
15 amount to be determined according to proof.

16 88. As a direct and proximate result of the illegal conspiracy, Plaintiffs  
17 and the members of the Class have been injured and financially damaged in their  
18 respective businesses and property, in that they have paid Fuel Surcharges and  
19 other fees during the Class Period they would not have paid in the absence of the  
20 illegal conspiracy.

21 **PRAYER FOR RELIEF**

22 A. The Court determine that the action may be maintained as a class  
23 action under Rule 23(a) and (b) (3) of the Federal Rules of Civil Procedure;

24 B. The Court adjudge and decree that the conduct, combination and  
25 conspiracy alleged herein is a per se unreasonable restraint of trade in violation of  
26 Section 1 of the Sherman Act;



1 C. Judgment be entered against Defendants, jointly and severally, and in  
2 favor of Plaintiffs and the Class for damages as allowed by law as determined to  
3 have been sustained by them;

4 D. Each of the Defendants, successors, assigns, parents, subsidiaries,  
5 affiliates and transferees, and their respective officers, directors, agents and  
6 employees, and all other persons acting or claiming to act on behalf of Defendants  
7 or in concert with them, be permanently enjoined and restrained from, in any  
8 manner, directly or indirectly, continuing, maintaining or renewing the  
9 combinations, conspiracy, agreement, understanding or concert of action, or  
10 adopting any practice, plan, program or design having a similar purpose or effect in  
11 restraining competition.

12 E. The Court award Plaintiffs and Class attorneys' fees and costs, and  
13 pre-judgment and post-judgment interest as permitted by law; and

14 F. The Court award Plaintiffs and the Class such other and further relief  
15 as may be necessary and appropriate.

16  
17 DATED: February 21, 2008

O'DONNELL & ASSOCIATES PC

18  
19 By: 

20 PIERCE O'DONNELL  
21 Attorneys for Plaintiffs DAVID  
22 FRANK MURPHY and DAVID  
23 KUO  
24  
25  
26  
27  
28

**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a trial by jury.

DATED: February 21, 2008

O'DONNELL & ASSOCIATES PC

By: 

PIERCE O'DONNELL  
Attorneys for Plaintiffs DAVID  
FRANK MURPHY and DAVID  
KUO

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

DAVID F. MURPHY et al.

PLAINTIFF(S)

v.

*SEE Attachment*  
AIR NEW ZEALAND et al.

DEFENDANT(S).

*see Attachment*

CASE NUMBER

**PCV08-01214** *PJWx*

**SUMMONS**

TO: DEFENDANT(S): CHINA AIRLINES

A lawsuit has been filed against you.

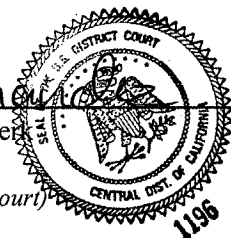
Within 20 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, O'Donnell & Associates, whose address is 550 S. Hope Street, Suite 1000, Los Angeles, California 90071. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: FEB 22 2008By: *[Signature]*

Deputy Clerk

(Seal of the Court)



[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

**CONFORMED**

O'DONNELL & ASSOCIATES P.C.  
PIERCE O'DONNELL (State Bar No. 081298)  
GREGORY J. MANN (State Bar No. 200578)  
ROBERT M. PARTAIN (State Bar No. 221477)  
550 South Hope Street, Suite 1000  
Los Angeles, CA 90071  
Telephone: (213) 347-0290  
Fax: (213) 347-0299

Attorneys for DAVID FRANK  
MURPHY, DAVID KUO and the Class

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

DAVID F. MURPHY, an individual,  
DAVID KUO, an individual, and on  
behalf of all others similarly situated,

Plaintiffs,

v.

AIR NEW ZEALAND,  
ALL NIPPON AIRWAYS,  
CATHAY PACIFIC AIRWAYS,  
CHINA AIRLINES,  
EVA AIRLINES,  
JAPAN AIRLINES INTERNATIONAL,  
MALAYSIA AIRLINES,  
NORTHWEST AIRLINES,  
QANTAS AIRLINES,  
SINGAPORE AIRLINES,  
THAI AIRLINES,  
UNITED AIRLINES,

Defendants.

CASE NO. \_\_\_\_\_

**CLASS ACTION COMPLAINT  
FOR VIOLATIONS OF THE  
SHERMAN ANTITRUST ACT  
15 U.S.C. § 1**

**JURY TRIAL DEMANDED**

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge Manuel Real and the assigned discovery Magistrate Judge is Patrick J. Walsh.

The case number on all documents filed with the Court should read as follows:

**CV08- 1214 R (PJWx)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

Unless otherwise ordered, the United States District Judge assigned to this case will hear and determine all discovery related motions.

===== :  
**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

☒ **Western Division**  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

☐ **Southern Division**  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

☐ **Eastern Division**  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET**

<b>I (a) PLAINTIFFS</b> (Check box if you are representing yourself <input type="checkbox"/> ) David F. Murphy David Kuo	<b>DEFENDANTS</b> Air New Zealand, All Nippon Airways, Cathay Pacific Airways, China Airlines, Eva Airlines, Japan Airlines, Malaysia Airlines, Northwest Airlines, Qantas Airlines, Singapore Airlines, Thai Airlines, United Air
<b>(b)</b> County of Residence of First Listed Plaintiff (Except in U.S. Plaintiff Cases): Los Angeles	County of Residence of First Listed Defendant (In U.S. Plaintiff Cases Only):
<b>(c)</b> Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) O'Donnell & Associates 550 South Hope Street, Suite 1000 Los Angeles, California 90071 (213) 347-0290	Attorneys (If Known)

<b>II. BASIS OF JURISDICTION</b> (Place an X in one box only.)  <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)  <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only</b> (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border: none;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> </tr> <tr> <td>Citizen of This State</td> <td align="center"><input type="checkbox"/> 1</td> <td align="center"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td align="center"><input type="checkbox"/> 4</td> <td align="center"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td align="center"><input type="checkbox"/> 2</td> <td align="center"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td align="center"><input type="checkbox"/> 5</td> <td align="center"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td align="center"><input type="checkbox"/> 3</td> <td align="center"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td align="center"><input type="checkbox"/> 6</td> <td align="center"><input type="checkbox"/> 6</td> </tr> </table>		<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

**IV. ORIGIN** (Place an X in one box only.)

☒ 1 Original Proceeding    
 ☐ 2 Removed from State Court    
 ☐ 3 Remanded from Appellate Court    
 ☐ 4 Reinstated or Reopened    
 ☐ 5 Transferred from another district (specify):    
 ☐ 6 Multi-District Litigation    
 ☐ 7 Appeal to District Judge from Magistrate Judge

**V. REQUESTED IN COMPLAINT: JURY DEMAND:** ☒ Yes   ☐ No (Check 'Yes' only if demanded in complaint.)

**CLASS ACTION under F.R.C.P. 23:** ☒ Yes   ☐ No     **MONEY DEMANDED IN COMPLAINT: \$** \_\_\_\_\_

**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

15 U.S.C. Section 1: Sherman Antitrust Act case involving illegal agreements among trans-Pacific air carriers

**VII. NATURE OF SUIT** (Place an X in one box only.)

<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input checked="" type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities /Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>TORTS</b> <b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<b>TORTS</b> <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER</b> <b>PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General Habeas Corpus <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <b>FORFEITURE / PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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**VIII(a). IDENTICAL CASES:** Has this action been previously filed and dismissed, remanded or closed? ☒ No   ☐ Yes

If yes, list case number(s):

**FOR OFFICE USE ONLY:** Case Number: **CV08-01214**

# CONFORMED



**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET**

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**VIII(b). RELATED CASES:** Have any cases been previously filed that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): \_\_\_\_\_

**Civil cases are deemed related if a previously filed case and the present case:**

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or  
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or  
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or  
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**IX. VENUE:** List the California County, or State if other than California, in which **EACH** named plaintiff resides (Use an additional sheet if necessary)

☐ Check here if the U.S. government, its agencies or employees is a named plaintiff.

Los Angeles

List the California County, or State if other than California, in which **EACH** named defendant resides. (Use an additional sheet if necessary).

☐ Check here if the U.S. government, its agencies or employees is a named defendant.

New Zealand, Japan, Hong Kong, Taiwan, Malaysia, Minnesota, Australia, Singapore, Thailand, Illinois

**List the California County, or State if other than California, in which **EACH** claim arose.** (Use an additional sheet if necessary)

**Note:** In land condemnation cases, use the location of the tract of land involved.

Los Angeles

**X. SIGNATURE OF ATTORNEY (OR PRO PER):** \_\_\_\_\_

Date

*Feb. 21, 2008*

**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

SCAN

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

David F. Murphy, et al.,

PLAINTIFF(S)

v.

AIR NEW ZEALAND, et al. (see Attachment A)

DEFENDANT(S).

CASE NUMBER

CV-08-01214 R (PJwx)

ALIAS  
SUMMONSTO: DEFENDANT(S): To The Above-Named Defendants

A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, O'Donnell & Associates, whose address is 550 S. Hope Street, Suite 1000, Los Angeles, California 90071. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: 2/26/08By: M. Hernandez

Deputy Clerk

(Seal of the Court)



1196

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

Attachment A

**Defendants In *Murphy v. Air New Zealand***

Air New Zealand

All Nippon Airways

Cathay Pacific Airways

China Airlines

Eva Airlines

Japan Airlines International

Malaysia Airlines

Northwest Airlines

Qantas Airlines

Singapore Airlines

Thai Airlines

United Airlines

NAME, ADDRESS & TELEPHONE NUMBER OF ATTORNEY(S) FOR, OR, PLAINTIFF OR DEFENDANT IF PLAINTIFF OR DEFENDANT IS PRO PER

Pierce O'Donnell (SBN 81298)  
 Gregory Mann (SBN 200578)  
 Robert Partain (SBN 221477)  
 O'Donnell & Associates  
 550 South Hope Street, Suite 1000  
 Los Angeles, California 90071  
 Tel: (213) 347-0290  
 Fax: (213) 347-0299

ATTORNEYS FOR: Plaintiffs

FILED  
 2008 FEB 22 PM 2:07  
 CLERK U.S. DISTRICT COURT  
 CENTRAL DISTRICT OF CALIF.  
 LOS ANGELES

UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA

David F. Murphy  
 David Kuo

Plaintiff(s),

CASE NUMBER

CV08-01214

PJW

Air New Zealand et al.

Defendant(s)

CERTIFICATION AND NOTICE  
 OF INTERESTED PARTIES  
 (Local Rule 7.1-1)

TO: THE COURT AND ALL PARTIES APPEARING OF RECORD:

The undersigned, counsel of record for Plaintiffs David F. Murphy and David Kuo  
 (or party appearing in pro per), certifies that the following listed party (or parties) has (have) a direct, pecuniary interest in the outcome of this case. These representations are made to enable the Court to evaluate possible disqualification or recusal. (Use additional sheet if necessary.)

PARTY

CONNECTION

(List the names of all such parties and identify their connection and interest.)

David F. Murphy  
 David Kuo  
 Air New Zealand  
 All Nippon Airways  
 Cathay Pacific Airways  
 China Airlines  
 Eva Airlines  
 Japan Airlines International  
 Malaysia Airlines  
 Northwest Airlines  
 Qantas Airlines  
 Singapore Airlines  
 Thai Airlines  
 United Airlines

Plaintiff  
 Plaintiff  
 Defendant  
 Defendant  
 Defendant  
 Defendant  
 Defendant  
 Defendant  
 Defendant  
 Defendant  
 Defendant  
 Defendant  
 Defendant  
 Defendant

2/22/08

Date

Sign

Plaintiffs David F. Murphy and David Kuo

Attorney of record for or party appearing in pro per

NOTICE OF INTERESTED PARTIES

CONFORMED